

REMARKS

The claims have been amended as set forth above. Claims 1-10 are pending in this application. Claims 1-10 have been rejected.

Applicants' Response to the Claim Rejections under 35 U.S.C. §103

Claims 1, 2 and 5-10 are rejected under 35 U.S.C. §103(a) as being unpatentable over *Niki et al* (JP 2003-052746) in view of *Keyes et al.* (US 4,200,238).

In response thereto, applicants respectfully submit that the present invention as now claimed is not obvious in light of the combination of Niki and Keyes for at least the reason that the combination cannot provide for all the claimed features, nor is there any manner whereby a skilled artisan would modify the combination so as to derive the present invention.

Specifically, the combination of Niki and Keyes at least cannot provide for the feature of amended claim 1 that the water-absorbing resin compound is a mixture of a water-absorbing resin, an antibacterial agent comprising a porous material incorporating an antibacterial metal, and a metal chelating agent.

Preliminarily, applicants note that the translation of Niki utilized is computer generated. In order to further prosecution, applicants have attached hereto a verified English language translation of Niki which more accurately reflect the disclosures of the Japanese reference. Also, applicants include the Declaration of Masayoshi Handa which explains the disclosures of Niki and Keyes as understood to the skilled artisan and is in concurrence with the remarks below.

As to the rejection, Niki is cited as the primary reference. Niki is relied upon for all the features except the particle size distribution of metal chelating agent within claim 1. The rejection relies on the secondary reference, Keyes as to particle size distribution of metal chelating agent. The rejection does not cite to specific sections of Niki but instead relies upon the entire general teaching of the reference.

In regard to the disclosures of Niki, the reference is teaching multiple different layers within an antibacterial deodorant sheet 7 which surrounds an absorber 4. See Drawings 2 and 3. As described within the specification of Niki, the sheet 7 is comprised of separate layers, including a deodorizing layer 8 which separates an antibacterial layer 9 and a chelating layer 10. These multiple layers form the sheet 7 which is wrapped around the absorber 4. See, claim 1, paragraphs 0007, 0015-0017 and Drawings 1-3. More specifically, Niki maintains that by disposing the chelating layer 10 on the deodorizing layer 8 independent from the deodorizing layer 8 and the antibacterial layer 9, the deodorizing effect and the antibacterial effect are improved, proliferation of bacteria which occurs on the side of the top sheet rather than on the side of the deodorizing layer 8 can be prevented and a rough dry skin preventing effect may be enhanced. In short, Niki emphasizes that the antibacterial agent, the metal chelating agent and the superabsorbent polymer do not coexist in one place in the absorbent article.

The rejection appears to be citing to the absorber 4 as equivalent to the claimed absorbing resin; the antibacterial layer 9 as the claimed antibacterial agent and the chelating layer 10 as the chelating agent.

One of the primary distinguishing features of Niki is the requirement that the layers are all separate from each other. For example, at paragraph [0016], Niki states that if the deodorizing layer 8 is intermingled with the antibacterial layer 9 this adversely affects the properties of both layers. Further, in paragraph [0017], Niki states that the antimicrobial composition has adverse effects on a super absorbency polymer, thus multiple layers of the absorbance sheet 7 are utilized. Further, paragraph [0017] states that the layering system of the absorbance sheet 7 results in a safer diaper since unwanted agents are kept away from the skin.

Based on these disclosures, Niki does not teach “a mixture of” the above components. However, as set forth in all the Examples in applicants’ specification, all the materials are combined and mixed into a single water-absorbing resin compound. The water-absorbing resin compound according to the present invention may be obtained by mixing a water-absorbing resin, an antibacterial agent, and a metal chelating agent. See, the English text, page7, lines 14-16. That is, the present invention is characterized in that the antibacterial agent and the metal chelating agent are mixed with the water-absorbing resin although the chelating agent locates outside of the antibacterial agent.

Niki is forming each of the materials as separate layers which are then placed in a diaper. The layers do not interact when formed into a diaper. Niki teaches against combining all the materials within the absorbing resin because this will deteriorate the effects of all of the materials as compared to forming each of them within separate layers. In short, Niki teaches strongly away from forming a compound such as that envisioned within applicants’ examples and set forth in the claimed invention.

As to the secondary reference, Keyes, this document is only cited for the particle size distribution and does not make up for the absence in the teachings of the primary reference, Niki in regard to a mixture.

Wherefore, applicants respectfully submit that claim 1 as now presented and its respective dependent claims are not obvious over the combination of Niki and Keyes.

Claim 3 is rejected under 35 U.S.C. §103(a) as being unpatentable over *Niki* in view of *Keyes et al.* as applied to claim 1 above and further in view of *Gancet et al.* (US 6,277,772).

Claim 4 is rejected under 35 U.S.C. §103(a) as being unpatentable over *Niki* in view of *Keyes* and further in view of *Hosokawa* (EP 257,951).

By addressing the rejection of parent claim 1 as detailed above, likewise the present rejections should be considered addressed by nature of the claims dependencies.

CONCLUSION

In view of the foregoing amendments and accompanying remarks, it is submitted that all pending claims are in condition for allowance. A prompt and favorable reconsideration of the rejection and an indication of allowability of all pending claims are earnestly solicited.

If the Examiner believes that there are issues remaining to be resolved in this application, the Examiner is invited to contact the undersigned attorney at the telephone number indicated below to arrange for an interview to expedite and complete prosecution of this case.

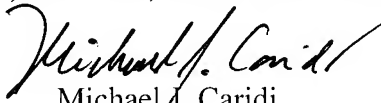
Application No.: 10/552,152
Art Unit: 3761

Amendment under 37 C.F.R. §1.111
Attorney Docket No.: 053170

If this paper is not timely filed, Applicants respectfully petition for an appropriate extension of time. The fees for such an extension or any other fees that may be due with respect to this paper may be charged to Deposit Account No. 50-2866.

Respectfully submitted,

WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP

A handwritten signature in black ink, appearing to read "Michael J. Caridi", is written over the printed name.

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Enclosure: Declaration of Masayoshi Handa
Verified English trans. JP 2003-052746